

REMARKS

Applicants respectfully request reconsideration of the newly presented rejections of the claims of the instant application in view of the amendments above and the following remarks.

I. STATUS OF THE CLAIMS

Claims 1, 3-7, 10, and 12-15 are presently pending and under consideration. Claims 17-21 are canceled, without prejudice. Claims 2, 8, 9, 11, and 16 were previously canceled, without prejudice. Claims 1 and 10 are amended. Applicants reserve the right to file a divisional or continuing application on any non-pursued subject matter.

Claims 1 and 10 are amended to remove recitation of providing the extract of *Buchholzia coriacea* in an amount effective to promote the repair of aged and/or photo-aged skin, provide an antioxidant effect and an appeasing and anti-irritation effect against oxidative stress and pollutants, and/or protect against UV or IR radiation.

No new matter is presented. No new claims are added.

II. SUMMARY OF THE INVENTION AS CLAIMED

The presently claimed invention, in one aspect, is directed to a cosmetic or dermatopharmaceutical composition comprising an extract of *Buchholzia coriacea* and at least one auxiliary and/or additive. Important to the invention is that the extract is present from a source and in an amount effective to provide an anti-aging, anti-wrinkle, rejuvenating, and/or revitalizing effect on stressed or tired skin. (See claims 1 and 3-7.)

According to another aspect, the presently claimed invention is directed to a method for the cosmetic treatment of the skin or scalp, comprising the step of administering to a patient in need thereof a composition comprising an effective amount of a plant extract from *Buchholzia coriacea*. The method further comprises inhibiting the synthesis of melanin, decreasing the effects of skin pigmentation, stimulating the growth

and/or metabolism of human fibroblasts, providing an anti-aging and/or anti-wrinkle effect, promoting the repair of aged and/or photo-aged skin, and/or promoting hair growth or the delay of hair loss. (See claims 10, and 12-15.)

III. REJECTIONS OVER PRIOR ART

The Examiner has rejected previously pending claims 1, 3, 4, 10, 12-15, 17, 18, 20, and 21 under 35 U.S.C. § 102(a) as allegedly anticipated by the admitted state of the art. The Examiner states that Applicants admit that a composition comprising a water extract solution from seeds of *Bucchoholzia coriacea* has effectively been used in prior art to teach earaches via topical application thereto. The Examiner further states that Applicants admit that a composition comprising a fruit extract of *Buchholzia coriacea* has been effectively used in the prior art to treat back pain.

The Examiner has also rejected previously pending claims 1, 3-7, 10, 12-15, and 17-21 as being anticipated by the admitted state of the art in view of Doi et al. (JP 411322630A). The Examiner states that Doi et al. discloses skin additives such as antimicrobial agents. While the Examiner acknowledges that the allegedly admitted state of the art does not disclose within its composition and/or method to include an additional claimed skin additive to be administered topically, the Examiner states that it would have been obvious to modify the *Buchholzia coriacea* extract preparations allegedly admitted to be part of the prior art to include the skin additives/auxiliaries disclosed by Doi et al.

While Applicants do not necessarily agree with the Examiner's reasoning, Applicants have amended claims 1 and 10, and canceled claims 17-21, without prejudice, to further the prosecution of this application. More particularly, Applicants have removed recitation of providing the claimed extract in an amount effective to promote the repair of aged and/or photo-aged skin, provide an antioxidant effect and an appeasing and anti-irritation effect against oxidative stress and pollutants, and/or protecting against UV or IR radiation.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987).

Here, claim 1 as presently amended specifically recites that the extract is present from a source and in an amount effective to provide an anti-aging, anti-wrinkle, rejuvenating, and/or revitalizing effect on stressed or tired skin. Similarly, claim 10 as presently amended recites, among other things, a method comprising inhibiting the synthesis of melanin, decreasing the effects of skin pigmentation, stimulating the growth and/or metabolism of human fibroblasts, providing an anti-aging and/or anti-wrinkle effect, promoting the repair of aged and/or photo-aged skin, and/or promoting the hair growth or the delay of hair loss. In contrast, the Examiner states that Applicants' allegedly admitted state of the art indicates that (1) the extract of seeds from *Buchholzia coriacea* has been effectively used in the prior art to treat earaches, and (2) that the extract of fruit from *Buchholzia coriacea* has effectively been used in the prior art to treat back pain. The Examiner states that both earaches and back pain are commonly associated with skin inflammation. See Office Action, p. 2-4. Applicants submit, however, that such disclosures do not teach or suggest the presently claimed invention. In fact, Applicants submit that earaches and back pain are unrelated to providing an anti-aging, anti-wrinkle, rejuvenating, and/or revitalizing effect on stressed or tired skin. Similarly, such disclosures are silent with respect to inhibiting the synthesis of melanin, decreasing the effects of skin pigmentation, and/or promoting hair growth or the delay of hair loss. Accordingly, Applicants respectfully submit that claims 1, 3-7, 10, and 12-15 are novel over the allegedly admitted state of the art.

With respect to the Examiner's obviousness rejection of the claims, Applicants respectfully submit that Doi et al. does not cure the deficiency of the allegedly admitted state of the art. Doi et al. discloses plant extracts of *Coptis japonica Makino* and/or *Phellodendron amurense Ruprecht* and an extract of *Yucca* as having antimicrobial activity. However, Doi et al. is silent with respect to *Buchholzia coriacea* extracts providing an anti-aging, anti-wrinkle, rejuvenating, and/or revitalizing effect on stressed or tired skin, or as inhibiting the synthesis of melanin, decreasing the effects of skin pigmentation, and/or promoting hair growth or the delay of hair loss. Accordingly,

Applicants respectfully submit that claims 1, 3-7, 10, and 12-15 are patentable over the allegedly admitted state of the art in view of Doi et al.

In view of the foregoing, Applicants respectfully request reconsideration and withdraw of the instant rejections of the claims.

CONCLUSION

In view of the abovementioned amendments and remarks Applicants respectfully assert that this application is now in condition for allowance. The Examiner is invited to contact the undersigned counsel in order to further the prosecution of this application in any way.

Respectfully submitted,

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